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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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31780

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11/25/2008

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CHAKOUR, ISSAM

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/582,012	TACHIKAWA, KATSUHIKO	
	<b>Examiner</b>	<b>Art Unit</b>	
	ISSAM CHAKOUR	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/04/2008; 06/07/2006</u> .                                  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This office action is in response to the amendments and arguments filed on 08/15/2008.

The applicant responded with amendments to claims 1-3.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, and 3 are rejected under 35 U.S.C. 102 (b) as being anticipated by Grube et al (US 5,239,678).

3. Regarding claims 1, Grube et al teach a control method for a trunking system performing exchange between a wireless unit and the other communication party by means of control signal communication with the wireless unit by use of a control channel, and thereby allowing communication signal communication using a selected telephone communication channel between the wireless unit and the other communication party, the control method comprising the steps of:

when all the telephone communication channels are busy when a new request for the telephone communication channel comes from the wireless unit, performing a telephone communication channel making processing for using the control channel as a telephone communication channel; when the control channel is used as a telephone communication channel, inserting information indicating a usage state of the control channel (See column 10 lines 16-18, see also claim 3 and 4) and a usage state of neighboring channels in an overlapped manner (See column 4, lines 4-5,

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note that "Send ISW" are signal indication transmitted on the control channel, note also that each subscriber unit requesting Channels or using channels is correspondent to the adjacent channels ) into information transmitted via the downlink (See column 4 lines 1-2, the downlink is the transmission from the controller's transceivers to the subscriber's units) communication of the control channel to perform a control channel usage state notifying processing (See column 7, lines 13-16, the process by which the "Send ISW" signal is decided to be sent in the downlink on the control channel is usage state notifying processing to notify the state of control channel that was used as voice channel); and

when any of the busy telephone communication channels is released when the control channel is used as a telephone communication channel, performing a control channel shifting processing for setting the released telephone communication Channel as a new control channel (see abstract), and by using all channels, notifying a plurality of the wireless units that the released telephone communication channel currently acts as a new control channel (Claim 10).

4. Consider claim 2, Grube teaches with respect to claims 2 and 2/3, a control method for a trunking system performing exchange between a wireless unit and the other communication party by means of control signal communication with the wireless unit by use of a control channel, and thereby allowing communication signal communication using a selected telephone communication channel between the wireless unit and the other communication party, the control method comprising the steps of:

when all the telephone communication channels are busy when a new request for the telephone

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communication channel comes from the wireless unit, performing a telephone communication channel making processing for using the control channel as a telephone communication channel; when the control channel is used as a telephone communication channel, inserting information indicating a usage state of the control channel (See column 10 lines 16-18, claims 3 and 4, see also column 5, lines 24-25) and a usage state of neighboring channels in an overlapped manner (See column 4, lines 4-5, note that "Send ISW" are signal indication transmitted on the control channel, note also that each subscriber unit requesting a channel or using channel is correspondent to the adjacent channels) into information transmitted via the downlink (See column 4 lines 1-2, the downlink is the transmission from the controller's transceivers to the subscriber's units) communication of the control channel to perform a control channel usage state notifying processing (See column 7, lines 13-16, the process by which the "Send ISW" signal is decided to be sent in the downlink on the control channel is usage state notifying processing to notify the state of control channel that was used as voice channel); and when any of the busy telephone communication channels is released when the control channel is used as a telephone communication channel, performing a control channel shifting processing for causing communication performing transmission/reception to/from the wireless unit by use of the control channel to be shifted to the released telephone communication channel, and releasing the control channel so as to be able to be used for transmission and reception of the control signal (see Abstract, claim 1, and claim 2).

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Grube in view of Lopponen (US 5,590,400).

Consider claim 3, Grube discloses the control method in accordance with any one of claim 1 or

2. Grube teaches as mentioned above the control channel usage state notifying processing. Grube does not explicitly teach that when the control channel is used as a telephone communication channel, the control channel usage state notifying processing is performed for a wireless unit which is scanning the control signal, thereby not causing a useless scanning by the wireless unit.

However, Lopponen discloses control channel usage state notifying processing is performed such that the trunk control apparatus (e.g. base-station) acknowledges the mobile station or the user of a state where there is no control channel, this control channel usage state notifying processing is explicitly disclosed in column 6, lines 60-63.

It would have been obvious to one of ordinary skill in the art to combine Grube's invention with the teaching taught by Lopponen because informing the mobile station of the control channel

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current state, and acknowledging its availability would enable the mobile phone to track the status of the control channel without continuously scanning for that information about the control channel. It would have been further obvious to one of ordinary skill in the art that continuous sweep of frequencies for retrieving said information causes excess battery power consumption.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

1. Regarding claims 1 and 2, the applicant submitted that Grube does not cover all the limitations of claims 1 and 2 as amended. The examiner respectfully disagrees, Grube discloses that when the control channel is used as a telephone communication channel, inserting information indicating a usage state of the control channel (See column 10 lines 16-18, see also claim 3 and 4) and a usage state of neighboring channels in an overlapped manner (See column 4, lines 4-5, note that "Send ISW" are signal indication transmitted on the control channel, note also that each subscriber unit requesting Channels or using channels is correspondent to the adjacent channels ) into information transmitted via the downlink (See column 4 lines 1-2, the downlink is the transmission from the controller's transceivers to the subscriber's units) communication of the control channel to perform a control channel usage state notifying processing (See column 7, lines 13-16, the process by which the "Send ISW" signal is decided to be sent in the downlink on the control channel is usage state notifying processing to notify the state of control channel that was used as voice channel)

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It is evident that Grube teaches that the control channel usage state notifying processing is performed by the controller or base-station such that when the control channel is being used as a voice channel, the controller indicates via the downlink communication of the control channel, the process negate the need for the mobile station to continuously scan for the control channel to know if it is available or being used.

2. Regarding claim 3, the applicant submitted that the introduced feature as amended places the claim in condition for allowable. The examiner respectfully disagrees, it is provided that Grube in view of Lopponen discloses the control method in accordance with the amended claim 3, because acknowledging the mobile station of the present state of the control channel negates the need for the continuous frequency sweep for that information, thus as is obvious to one of ordinary skill in the art such feature would reduce battery power consumption.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,



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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ISSAM CHAKOUR whose telephone number is (571) 270-5889. The examiner can normally be reached on Monday-Thursday (8:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Perez Rafael can be reached on (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

IC

/Rafael Pérez-Gutiérrez/

Supervisory Patent Examiner, Art Unit 2617